IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

WRIT RESTORATION No. 110 of 2004

STATE OF RAJ.THRO.ASST.ENGI.,PHED.
V/S
CHHAGAN LAL & ANR.

Smt. VIDYA BORA,AGA, for the appellant / petitioner

Date of Order : 16.2.2005

HON'BLE N P GUPTA,J.

ORDER

Heard learned counsel for the petitioner.

Registry had pointed out the defects way-back on 1.10.2003, but then they were not removed. When the matter was listed in the Court on 23.2.2004, ten days' time was granted to remove the defects, still they were not removed. Then on 28.4.2004, peremptory order was made, and still they were not removed. Therefore, the writ petition stood dismissed.

In the restoration, all that has been contended is that there is no documentary evidence to establish that the workman ever worked for the relevant period, and in absence of the material, the Labour Court was not justified in awarding the differences of wages, paid to the workman. Then, it is contended that for technical reasons, the department should not be permitted to suffer, as after-all it is a public exchequer money, which is going to be jeopardized by making the payment as directed by the Labour Court, and thus considerations of substantial justice has also been invoked.

I find from the documents, annexed with the writ petition, that the Labour Court has passed the award in favour of the workman, granting an amount of Rs.5,444/- only by way of wages for the work done, and has also awarded interest @ 9% in default of payment. This award was made on 31.10.2002. In making this award the learned Labour Court has taken into account the log-book maintained, wherein it is

shown that from 19.6.97 to 15.3.2000, the workman had worked, and had filled the log-book, and the same is duly signed by the workman. Then the learned Labour Court has also relied upon the statement of Bhagwat Singh, who has deposed that from 19.6.97 to 15.3.2000, Chhagan Lal had worked, and log-book as filled in, is correct. It is, considering these circumstances, that the Labour Court has passed the award. Considering that it is admitted position, that the workman had worked, payment was directed to be made only on the daily wages rates, and for the holidays, on which he was not allowed to avail the holidays.

In that view of the matter, even the considerations of substantial justice are not available to the petitioner.

Since no sufficient cause has been made out for not complying with the peremptory order of the Court, I do not find any sufficient ground to restore the writ petition.

The restoration application is, therefore, dismissed.

(N P GUPTA),J.

/tarun/